

TEXAS COURT OF CRIMINAL APPEALS

No. PD-1096-19

FILED
COURT OF CRIMINAL APPEALS
3/30/2020
DEANA WILLIAMSON, CLERK

Ex parte Christopher Rion

**On Discretionary Review from the Fifth Court of Appeals
No. 05-19-00280-CR**

**On Appeal from Criminal District Court No. 5, Dallas Co.
No. WX18-90101**

Motion to Extend the Time to File the Appellee's Brief

Michael Mowla
P.O. Box 868
Cedar Hill, TX 75106
Phone: 972-795-2401
Fax: 972-692-6636
michael@mowlalaw.com
Texas Bar No. 24048680
Attorney for Appellee Rion

To the Honorable Judges of the Texas Court of Criminal Appeals:

Attorney for Appellee Rion files this Motion to Extend the Time to File the Appellee's Brief:

I. Motion

1. On September 13, 2019, in [*Ex parte Rion*, No. 05-19-00280, 2019 Tex.App.-LEXIS 8318 \(Tex.App.-Dallas Sep. 13, 2019\) \(mem. op., not designated for publication\)](#), the Court of Appeals reversed the Order of the trial court signed on February 1, 2019 (CR.706) in which the trial court denied Rion's *Pretrial Application for Writ of Habeas Corpus Seeking Relief from Double Jeopardy, and in the alternative, a Motion for Continuance* (CR.91-128).

2. The State filed a petition for discretionary review and it was granted on January 15, 2020.

3. This Court granted one extension to the State for its brief.

4. On March 2, 2020, the State filed its brief.

5. The Appellee's Brief is due on **April 2, 2020**.

6. Appellee has **not** filed a previous motion to extend the time to file the Appellee's Brief.

7. For good cause, Attorney for Appellee asks for an extension of

20 days until **April 22, 2020** to file the Appellee's Brief.

8. Attorney for Appellee relies on the following facts for good cause for the requested extension: as this Court is aware, Attorney for Appellee represents John Hummel, who was set for execution on March 18, 2020. On March 16, 2020, this Court stayed Hummel's execution for 60 days. For about 45 days prior to March 16, 2020, the Hummel case engulfed much of Attorney for Appellee's time. On February 25, 2020, Attorney for Appellee filed a 31-page clemency application in the Texas Board of Pardons and Paroles, and then a 9-page supplement on March 2, 2020. On March 10, 2020, Attorney for Appellee filed a 64-page motion for leave and mandamus petition in this Court. See [*In re Hummel*, No. WR-81-578-02 \(Tex.Crim.App., filed March 10, 2020\)](#). The same day, Attorney for Appellee filed a motion for stay of execution and a supplement to the motion filed on March 13, 2020.

9. On March 4, 2020, Attorney for Appellee filed a 56-page Appellant's Brief in *Hummel v. Davis*, No. 20-70002 (5th Cir.).

10. Attorney for Appellee continues to investigate three other death penalty cases including *Ex parte Hudson*, No. 3CR-16-32585 (3rd Dist. Ct. Anderson Co.), No. WR-88,225-01 (Tex.Crim.App.). He is also

preparing for a jury trial in *State v. Wall*, No. CR17-0896 (43rd Dist. Court Parker Co.), a capital murder case.

11. Attorney for Appellee has these briefs, petitions, or motions due soon:

- Appellant's Brief in *United States v Shults*, No. 19-11145 (5th Cir.) the record on appeal of which is 13,269 pages. This brief was due on March 23, 2020, and Attorney for Appellee had been working on it, but because of a problem with the record on appeal, the due date was removed and will be reinstated later.
- Appellant's Brief in *Williams v. State*, No. 06-19-00272-CR (Tex.App.-Texarkana) due April 2, 2020
- Appellee's Brief in *State v. Moreno*, No. 01-19-00861-CR (Tex.App.-Houston [1st Dist.]) due April 3, 2020
- PDR in *Rickerson v. State*, No. PD-0259-20 (Tex.Crim.App.) due April 20, 2020


12. Appellee is entitled to the effective assistance of appellate counsel, *see Evitts v. Lucey*, 469 U.S. 387, 392 (1985), and the extra time requested is necessary to provide such counsel.

13. This Motion is **not** filed for purposes of delay, but so that justice may be served.

II. Conclusion


Attorney for Appellee prays that this Court grant this this Motion to Extend the Time to File the Appellee's Brief.

Respectfully submitted,

Michael Mowla
P.O. Box 868
Cedar Hill, TX 75106
Phone: 972-795-2401
Fax: 972-692-6636
michael@mowlalaw.com
Texas Bar No. 24048680
Attorney for Appellee

/s/ Michael Mowla
Michael Mowla

III. Certificate of Service

I certify that on March 20, 2020, this document was served on the Dallas County District Attorney's Office by efile or email to DCDAAppeals@dallascounty.org and joshua.vanderslice@dallascounty.org; and on the State Prosecuting Attorney by efile or email to stacey.soule@spa.texas.gov, john.messinger@spa.texas.gov, and information@spa.texas.gov.


/s/ Michael Mowla
Michael Mowla

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Michael Mowla on behalf of Michael Mowla
Bar No. 24048680
michael@mowlalaw.com
Envelope ID: 41988356
Status as of 03/30/2020 09:50:52 AM -05:00

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
John Messinger	24053705	john.messinger@spa.texas.gov	3/29/2020 9:58:15 PM	SENT
Stacey Soule		stacey.soule@spa.texas.gov	3/29/2020 9:58:15 PM	SENT
Stacey M.Soule		information@spa.texas.gov	3/29/2020 9:58:15 PM	SENT

Associated Case Party: Christopher Rion

Name	BarNumber	Email	TimestampSubmitted	Status
Michael Mowla	24048680	michael@mowlalaw.com	3/29/2020 9:58:15 PM	SENT

Associated Case Party: The State of Texas

Name	BarNumber	Email	TimestampSubmitted	Status
Brian Higginbotham	24078665	brian.p.higginbotham@gmail.com	3/29/2020 9:58:15 PM	SENT
Appellate DallasDA		dcdaappeals@dallascounty.org	3/29/2020 9:58:15 PM	SENT
Joshua Vanderslice		joshua.vanderslice@dallascounty.org	3/29/2020 9:58:15 PM	SENT